

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

THE SCOTTS COMPANY LLC,)	
Plaintiff,)	Civil Action No. 2:06cv899
v.)	Judge Graham
LIBERTY MUTUAL INSURANCE COMPANY,)	Magistrate Judge King
Defendant.)	

LIBERTY MUTUAL INSURANCE COMPANY'S MOTION TO COMPEL

Pursuant to Federal Rule of Civil Procedure 37, Defendant Liberty Mutual Insurance Company (“Liberty”) hereby moves this Court for an order compelling Plaintiff The Scotts Company LLC to produce all documents identified in the accompanying Memorandum in Support of Liberty’s Motion to Compel (“Memorandum of Law”) which it has improperly withheld from production on the grounds of relevance and an alleged “settlement privilege.” The reasons for this motion and supporting authorities are set forth in detail in the Memorandum of Law, the Declaration of Ana M. Francisco in Support of Liberty’s Motion to Compel, and exhibits thereto, and the Declaration of Alison Hajdusiewicz in Support of Liberty’s Motion to Compel, and exhibits thereto, filed concurrently herewith.

ORAL ARGUMENT REQUESTED

Dated: April 6, 2007

Respectfully submitted,

LIBERTY MUTUAL INSURANCE
COMPANY

By its attorneys,

/s/ Alison Hajdusiewicz
Ana M. Francisco
(admitted *pro hac vice*, MA Bar No. 78725)
Alison Hajdusiewicz
(admitted *pro hac vice*, MA Bar No. 663060)
ROPES & GRAY LLP
One International Place
Boston, Massachusetts 02110
Tel: (617) 951-7000
Fax: (617) 951-7050
Email: Ana.Francisco@ropesgray.com
Alison.Hajdusiewicz@ropesgray.com

Robert C. Buchbinder (0039623)
CRABBE BROWN & JAMES, LLP
500 South Front Street, Suite 1200
Columbus, Ohio 43215
Tel: (614) 229-4545
Fax: (614) 229-4559
Email: rbuchbinder@cbjlawyers.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of:

Liberty Mutual Insurance Company's Motion to Compel;

Memorandum in Support of Liberty Mutual Insurance Company's Motion to Compel;

Declaration of Ana M. Francisco in Support of Liberty Mutual Insurance Company's Motion to Compel, and exhibits thereto; and

Declaration of Alison Hajdusiewicz in Support of Liberty Mutual Insurance Company's Motion to Compel, and exhibits thereto

were served on April 6, 2007 by the Court's CM/ECF system on:

Frank A. Ray
David J. Butler
Chester, Willcox & Saxbe, LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215
fray@cwslaw.com
dbutler@cwslaw.com

Keith A. Meyer
Quinn Emanuel Urquhart Oliver & Hedges, LLP
865 S. Figueroa Street, 10th Floor
Los Angeles, California 90017
keithmeyer@quinnmanuel.com

/s/ Alison Hajdusiewicz
Alison Hajdusiewicz